

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS**

WAYNE HAGAN,

Plaintiff,

v.

**Civil Action No. 2:14-CV-32
(BAILEY)**

**ROBERT SCOTT,
JOHN COX, SAMUEL
RITCHIE, LOGAN KINKADE,
BRAD TENNANT, KAREN
PSZCZOLKOWSKI, and
JIM RUBENSTEIN,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge John S. Kaull [Doc. 84]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Kaull for submission of a proposed report and a recommendation ("R&R"). Magistrate Judge Kaull filed his R&R on June 8, 2015 [Doc. 84].

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo*

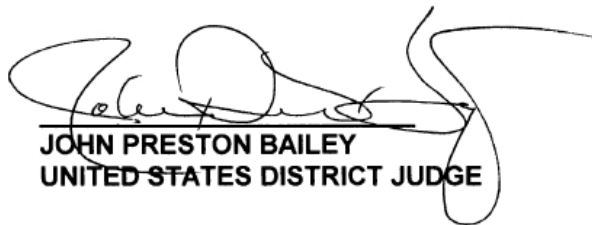
review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Originally, objections to Magistrate Judge Kaul's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). No objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the above, it is the opinion of this Court that the **Report and Recommendation [Doc. 84]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. As such, this Court **GRANTS** Defendants' Pszczolkowski and Rubenstein Motion to Dismiss **[Doc. 35]**. Accordingly, Count II of the plaintiff's Complaint is **DISMISSED**. However, this Court **DENIES** the Defendants' Motion for Summary Judgment **[Doc. 58]** as to defendants Scott, Cox, Ritchie, Logan, Kinkade, and Tennant. Having been dismissed above, the Motion **[Doc. 58]** is **DENIED AS MOOT** as to defendants Pszczolkowski and Rubenstein. This Court will **RESERVE** ruling on the plaintiff's oral motion for court-appointed counsel at this time. Additionally, a Scheduling Order will be entered at a future date.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* plaintiff.

DATED: June 30, 2015.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE